

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

WEDNESDAY, THE 22ND NOVEMBER 2006 / 1ST AGRAHAYANA 1928

WP(C).No. 17495 of 2006(G)

PETITIONER:

**1. RAJAN KOODALI,
ENGINEERING INSTRUCTOR (MECH.),
TECHNICAL HIGH SCHOOL, VADAKARA.**

**2. E.D.JOSEPH,
ENGINEERING INSTRUCTOR (MECH.),
T.H.S.AYAVANA, ERNAKULAM DISTRICT.**

**3. C.K.ABDUL RAHMAN,
ENGINEERING INSTRUCTOR (MECH.),
MANANTHAWADY, WAYANAD.**

BY ADV. SRI. CHERIAN VARGHESE

RESPONDENTS:

**1. STATE REPRESENTED BY SECRETARY TO
GOVERNMENT, DEPARTMENT OF HIGHER EDUCATION,
THIRUVANANTHAPURAM.**

**2. SENIOR JOINT DIRECTOR (PS),
DIRECTORATE OF TECHNICAL EDUCATION,
THIRUVANANTHAPURAM.**

**3. V.K.SIVASANKARAN,
LECTURER, GOVERNMENT POLY TECHNIC,
PERINTHALMANNA.**

**BY ADV. SRI.VINOD VALLIKAPPAN
GOVERNMENT PLEADER SRI.T.T.MUHAMOOD**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 22/11/06 , THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:**

PETITIONER'S EXHIBITS

- EXT.P1 TRUE EXTRACT OF 1967 SPECIAL RULES AS AMENDED ON 20-11-81.**
- EXT.P2 TRUE COPY OF THE EXTRACT OF SPECIAL RULES FOR THE KERALA
TECHNICAL EDUCATION SERVICE (AMENDMENT) RULES 1987.**
- EXT.P3 TRUE COPY OF THE EXTRACT OF THE SPECIAL RULES AS AMENDED
ON 19-12-89.**
- EXT.P4 TRUE COPY OF THE GOVERNMENT ORDER DATED 12-07-04 (N.G.T.(Rt)
926/04/H.Edn.**
- EXT.P5 TRUE COPY OF THE PROMOTION ORDER NO.EC2/16861/02/DTE.**
- EXT.P6 TRUE COPY OF THE TRANSFER ORDER NO.EC3/9859/98 DTD. 19-5-88**
- EXT.P7 TRUE COPY OF THE LETTER REVISED PROVISIONAL SENIORITY LIST
OF ASSISTANT LECTURERS/ENGG.INSTRUCTORS (MECH.) AS ON
30-09-97.**
- EXT.P8 TRUE COPY OF THE REPRESENTATION DATED 12-05-06 SUBMITTED
BY THE PETITIONER BEFORE THE SECOND RESPONDENT.**
- EXT.P8(A) TRUE COPY OF THE REPRESENTATION DATED 12-05-06 SUBMITTED
BY THE 1ST PETITIONER BEFORE THE SECOND RESPONDENT.**
- EXT.P8(B) TRUE COPY OF THE REPRESENTATION DTD. 4-4-06 SUBMITTED BY
THE THIRD PETITIONER BEFORE THE FIRST RESPONDENT.**

/True Copy/

PA to Judge.

K.M.JOSEPH, J.

W.P.C.No.17495 OF 2006

Dated this the 22nd day of November, 2006.

JUDGMENT

The case of the petitioners is as follows. Petitioners were working as Workshop Instructors (Mech.Engg.) in Government Polytechnics. They were promoted as Instructors in Engineering (Hr.Grade) in 1998, 10-07-1998 and 2-1-1999 respectively. The next promotion post they aspire for is the post of Lecturer. The complaint of the petitioners is that they are not being promoted as Lecturer which comes under the category 2. The method of appointment is as follows:

i) By transfer from the Kerala Technical Subordinate Service from the category of Asst.Lecturer/Instructor in Engineering/Draftsman Grade I/Foreman belonging to the branch of Engineering/Technology in which the vacancy exists.

ii) In the absence of candidates under item (i) above by transfer from any other service in the Technical Education Department.

iii) In the absence of suitable candidates under item (i) and (ii) above by direct recruitment”

2. The qualification to be possessed in the rules for promotion is Degree in appropriate branch of Engineering. But petitioners claim the benefit of the protective clause in Ext.P3 which reads as follows:

“Clause (5) of the Special Rules for the Kerala Technical Education Service (Amendment) Rules 1989 issued in SRO No.2077/89 has provided as follows: “(5)

Nothing contained in the Kerala Technical Education Service (Amendment) Rules, 1989 shall apply to those in the feeder category to the above post who are already in service before the date of commencement of the said rules. But the personnel promoted, if any, during the interim period (i.e. from 23-09-1984 to the date of issue of this order) shall not be adversely affected.”

3. Petitioners also relied on Ext.P4 Government order. Petitioners have preferred Ext.P8 (a) before the first respondent.

4. In the counter affidavit filed on behalf of the second respondent, it is stated that petitioners were promoted as Engineering Instructors only on 04-03-1999, 10-07-1998 and 2-1-1999 respectively. It is further stated that Degree in appropriate branch of Engineering with not less than 60% marks in the qualifying examination is essential for the post of Lecturer in Polytechnics.

5. Having heard learned counsel for the petitioner and learned Government Pleader, this writ petition is disposed of directing the first respondent to consider and take a decision on Ext.P8, Ext.P8(a) and Ext.P8(b) in accordance with law within a period of two months from the date of production of a copy of this judgment after hearing the petitioners. While taking a decision on aforesaid respondent No.1 will also take note of Ext.P4. The first petitioner will make available a copy of Ext.P8 before the first respondent along with this judgment.

Writ petition is disposed of as above.

**K.M.JOSEPH.
JUDGE.**

sv.

